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EXAMINER

DAVIS, DAVID DONALD

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVE GOH, LEENA SANSGUIRI, PAUL CHOU,
NANDAKUMAR NATARAJAN, JOHN A. DILLEY,
MARCOS FRID, ROBERT H. HYERLE, ARNE LUHRS,
and CHANDRASEKAR VENKATRAMAN

Appeal 2009-011528
Application 09/102,207
Technology Center 2600

Before MAHSHID D. SAADAT, ELENI MANTIS MERCADER,
and BRADLEY W. BAUMEISTER, *Administrative Patent Judges*.

MANTIS MERCADER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1-30. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

INVENTION

Appellants' Figure 3 is reproduced below:

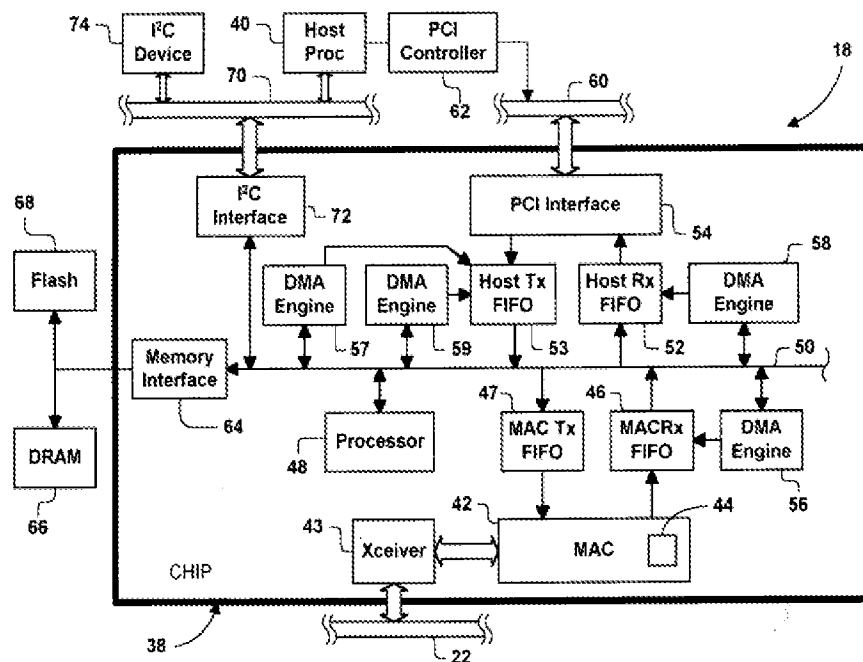


FIGURE 3

Appellants' Figure 3 and claimed invention are directed to a chip 38 that gathers information about a managed computer 18 without burdening the host processor and placing overhead on the operating system (Fig. 3; Spec. 4:10-12). Chip 38 allows the network manager to control and manage the computer (Spec. 7:20-22). Chip 38 includes a media access controller 42 which allows bi-directional communication with Local Area Network (LAN) 22 (Spec. 7:23-25).

Claim 1, reproduced below, is representative of the subject matter on appeal:

1. A chip for incorporation within a network device connectable to a computer network, the network device including a host processor, the chip comprising:

a media access controller connectable to the computer network, the media access controller providing the chip with access to the computer network independent of the host processor;

a host interface connectable to the host processor; and

an embedded processor coupled between the host interface and the media access controller;

the embedded processor being programmable to function as a manageability web server, communicate with the host interface and obtain manageability information about the network device;

the embedded processor further being programmable to send the manageability information to the media access controller for transmission over the computer network;

whereby the chip performs network management functions independent of the host processor.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Han	US 5,903,737	May 11, 1999
Cromer	US 6,532,497 B1	Mar. 11, 2003 (filed Apr. 14, 1998)

The following rejections are before us for review:

1. The Examiner rejected claims 1-3, 5, 6, 8, 12-15, 19, and 20 under 35 U.S.C. § 102(e) as anticipated by Cromer.

2. The Examiner rejected claims 7, 9-11, 18, and 21-30 under 35 U.S.C. § 103(a) as unpatentable over Cromer.

3. The Examiner rejected claims 4, 16, and 17 under 35 U.S.C. § 103(a) as unpatentable over Cromer in view of Han.

ISSUE

Has the Examiner erred in determining that Cromer teaches an embedded processor which sends manageability information “to the media access controller for transmission over the computer network” as recited in claim 1?

ANALYSIS

Appellants argue (App. Br. 13), *inter alia*, that Cromer specifically teaches logic 400 which sends data to physical layer 304, not to the media access controller 308 (col. 3, ll. 42-47). Appellants note that the additional arrow shown in Cromer’s Figure 4, as compared with Figure 3, is solely for the purpose of communication between the packet logic 400 and the physical layer 304 (App. Br. 13).

We agree with Appellants’ argument. We do not agree with the Examiner’s assertion (Ans. 10) that Figure 4’s bidirectional arrow indicates bidirectional communication between processor/logic 400 over the network through the media access controller 308 (*see also* Ans. 4). Cromer teaches that “*the physical layer 304 . . . conditions analog signals to go out to the network*” and that the media access controller MAC 308 is involved in energizing the client system 104 through a wake up command (col. 3, ll. 24-36 (emphasis added)). While this is with respect to Cromer’s Figure 3, no additional information is stated with respect to Figure 4’s arrow that connects physical layer 304 and the MAC 308. The only reference in Cromer’s description to Figure 4 is that the processor/logic 400 sends network packets to the network using the physical layer 304 (col. 3, ll. 42-47). Thus, the only logical inference is that the processor/logic 400 uses

physical layer 304 to send packages directly to the network. It would not be logically inferred that processor/logic 400 would send packages to the network through MAC 308, just because there is a bidirectional arrow between physical layer 304 and MAC 308.

Accordingly, we will reverse the Examiner's rejection of claim 1 and for similar reasons the rejections of independent claims 13 and 23, as well as the rejections of dependent claims 2-3, 5-12, 14-15, and 18-22, and 24-30. We will also reverse the Examiner's rejections of dependent claims 4, 16, and 17 as the additional Han reference either alone or in combination, does not cure the above-cited deficiency.

CONCLUSION

The Examiner erred in determining that Cromer teaches an embedded processor which sends manageability information "to the media access controller for transmission over the computer network."

ORDER

The decision of the Examiner to reject claims 1-30 is reversed.

REVERSED

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